

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**

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DISTRICT OF COLUMBIA
TAXICAB COMMISSION

Petitioner

v.

MELAKU G. GIORGIS
Respondent

Case No.: 2011-TAXI-V100648
NOI Nos.: V100648

FINAL ORDER

I. Introduction

This case arises under Title 31, Chapter 8 of the District of Columbia Municipal Regulations (“DCMR”). On July 27, 2011, the Government served Notice of Infraction No. V100648 (the “NOI”) upon Respondent Melaku G. Giorgis, charging Respondent with violating 31 DCMR 801.6 for allegedly overcharging a passenger. The Government alleged that the violation occurred on July 14, 2011, at 2121 I Street, NW, and sought a \$150 fine. Respondent denied the charge and I scheduled an evidentiary hearing for September 6, 2011.

At the hearing, Shawn Laster, Taxicab Commission Administrative Officer, appeared on behalf of the Government, and Respondent appeared on his own behalf.

Based upon the testimony of the witnesses, my evaluation of their credibility, and the exhibits admitted into evidence, I make the following findings of fact and conclusions of law.

II. Findings of Fact

Respondent is a licensed taxicab driver in the District of Columbia. On July 14, 2011, Respondent picked up the complainant, Chantel Thompson, at the intersection of 23rd Street and G Street, N.W. Petitioner's Exhibits ("PX") 100 and 102. After Respondent drove Ms. Thompson to a nearby bank and back to 23rd Street, she asked him to return to the bank. Respondent did not reset the cab's meter for this second trip and when they reached the bank, the meter indicated a fare of \$11.25. For the second trip, Respondent added a \$3.00 entry fee¹ and a \$1.00 gas surcharge to the metered fare, thereby initially charging \$15.25. Ms. Thompson paid Respondent \$16.00 and asked for change, but Respondent retained the entire \$16.00 payment because he did not have change.

III. Conclusions of Law

In the NOI, Petitioner charged Respondent with violating 31 DCMR 801.6 which lists specific extra charges and surcharges that a taxi driver may legitimately add to a metered fare. These include: (a) Telephone dispatch service in response to a telephone call for a taxicab (\$2.00); (b) Dismissal of a taxicab without use, after response to a telephone call (\$1.50); (c) For additional pieces of luggage over one article (\$.50); (d) Trunks or similar-sized large articles (\$2.00); (e) Personal service requiring the driver to leave the taxicab (\$2.00); (f) Delivery service (the same rate as for a single passenger); (g) A Small dog or another small

¹ 31 DCMR 801.3 provides in part:

For trips within the District of Columbia, the regular metered rate of fare is as follows:

- (a) Three dollars (\$ 3.00) upon entry and first 1/6 of a mile;
- (b) Twenty-five cents (\$ 0.25) for each one sixth of a mile after the first 1/6 of a mile. ***

animal, not in an enclosure (\$1.00); (h) A service animal accompanying a passenger with a disability and devices for the aid of a disabled person (no charge); (i) Any airport surcharge paid by the taxicab driver; (j) A flat fee, if a taxicab is employed on an hourly basis (\$25.00 for the first hour or fraction thereof and \$6.25 for each additional fifteen minutes or fraction thereof); and (k) For groups of two or more additional passengers, \$1.50 per each additional passenger.

In order to prevail in this case, Petitioner must establish that on the date and at the location alleged in the NOI, Respondent charged more than the Regulation allows for one or more of the itemized services. Yet, the evidence presented was only that Respondent charged more than the metered fare, or more specifically, seventy-five cents more than the metered fare, plus the entry fee and gas surcharge for the second trip. No evidence at the hearing demonstrated that Respondent provided any service itemized in 31 DCMR 801.6, much less that Respondent charged more than the allowed amount for any such service.

One might speculate that Petitioner actually intended to cite Respondent with violating 31 DCMR 801.3 for charging more than the regular metered fare; however, this court cannot substitute speculation for that which is Petitioner's burden to correctly charge and prove, i.e., that Respondent violated the Regulation cited in the NOI on the date and at the location alleged. Accordingly, I conclude that Respondent is not liable for violating 31 DCMR 801.6 as charged in the NOI and that this charge must therefore be dismissed.

IV. Order

Based on the above findings of fact, conclusions of law, and the entire record in this matter, it is this _____ day of _____ 2011:

ORDERED, that Respondent is **NOT LIABLE** for violating 31 DCMR 801.6 as alleged in NOI No. V100648; it is further

ORDERED, that Case No. 2011-TAXI-V100648 is **DISMISSED WITH PREJUDICE**; it is further

ORDERED, that pursuant to OAH Rule 2828, any party may file a motion for reconsideration within fifteen calendar days of the date of service of this order (the fifteen days consists of ten days, plus five additional days when service is made by mail (OAH Rule 2812.5)); it is further

ORDERED, that the appeal rights of any party aggrieved by this Order are stated below.

Louis J. Burnett
Administrative Law Judge

APPEAL RIGHTS

Pursuant to D.C. Official Code § 2-1831.16(c)-(e), any party suffering a legal wrong or adversely affected or aggrieved by this Order may seek judicial review by filing a petition for review and six copies with the District of Columbia Court of Appeals at the following address:

Clerk
District of Columbia Court of Appeals
430 E Street, NW, Rm. 115
Washington, DC 20001
202-879-2700

The petition for review (and required copies) may be mailed or delivered in person to the Clerk of the Court of Appeals, and must be received by the Clerk of the Court of Appeals within 30 calendar days of the mailing date of this Order. Information on petitions for review to the Court of Appeals can be found in Title III of the Rules of the District of Columbia Court of Appeals.

IMPORTANT NOTICES:

- 1. By law, the amount of a lawfully imposed fine cannot be modified or reduced on appeal. D.C. Official Code § 2-1831.16(g).**
- 2. Filing of a petition for review does not stay (stop) the requirement to comply with a Final Order, including any requirement to pay a fine, penalty or other monetary sanction imposed by a Final Order. If you wish to request a stay, you must first file a written motion for a stay with the Office of Administrative Hearings. If the presiding Administrative Law Judge denies a stay, you then may seek a stay from the D.C. Court of Appeals.**

Certificate of Service:

By First Class Mail (Postage Paid):

Melaku G. Giorgis
1820 Sugar Hill Drive #303
Woodbridge, VA 22192

I hereby certify that on _____,
2011 this document was served upon the
parties named on this page at the address(es)
and by the means stated.

Clerk / Deputy Clerk

By Inter-Agency Mail:

Dena Reed
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